

Bankruptcy Court (Belfast) Bill.

ARRANGEMENT OF CLAUSES.

Clauses.

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TO

Establish a Local Court of Bankruptcy in Belfast.

A.D. 1886.

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:

- 5 1. This Act may be cited as the Court of Bankruptcy (Belfast) Act, 1886. Short title.
2. This Act shall commence and come into operation upon the *first day of January one thousand eight hundred and eighty-seven*, and shall apply to Ireland only. Commencement and application of Act.
- 10 3. In this Act—
 The term "Order in Council" shall mean an order of the Lord Lieutenant, made by and with the advice and consent of Her Majesty's Privy Council in Ireland; Interpretation of terms.
 The term "local bankruptcy court" shall mean the court having and exercising jurisdiction in bankruptcy under this Act, within the district assigned as herein-after provided;
 The term "local registrar" shall mean a registrar of the local bankruptcy court acting in bankruptcy;
 The term "existing" shall mean (unless otherwise expressed)
 existing at the time appointed for the commencement of this Act;
 All terms and expressions defined or explained by the Irish Bankrupt and Insolvent Act, 1857, or the Supreme Court of Judicature Act (Ireland), 1877, or the County Officers and Courts (Ireland) Act 1877, shall, unless otherwise defined or explained by this Act, or unless there is anything in this Act repugnant thereto, have the same meanings in this Act as in the said Acts respectively.
- 25 4. From and after the commencement of this Act the Recorder of Belfast for the time being shall constitute and hold a local [Bill 9.] Sess. 2. A 2 Belfast local bankruptcy court.

A.D. 1886. bankruptcy court, to be called "The Belfast Local Bankruptcy Court." The local bankruptcy court, and the recorder as the judge thereof, shall, in addition to all or any existing jurisdiction, have and exercise, in all matters wherein he shall have jurisdiction as herein-after provided, all such and the like jurisdiction, power, and authority in bankruptcy, and as to arrangement with creditors, and composition after bankruptcy, as shall for the time being be vested in or capable of being exercised by the court of bankruptcy, or by any judge of the said court. The district to be assigned to the local bankruptcy court shall be the county of Antrim, the county of the town of Carrickfergus, and the county of Down.

Extent of jurisdiction.

5. The Lord Lieutenant may from time to time, after the passing of this Act, by Order in Council, add to and include in the district assigned under this Act to the local bankruptcy court the whole or any part or parts of any adjoining county or counties, or may exclude from any such district the whole or any part or parts of any county or counties theretofore included therein, and may vary the said district in manner aforesaid, as may from time to time appear expedient. For all the purposes of this Act the local bankruptcy court shall have jurisdiction in the case of any debtor or person sought to be adjudged a bankrupt, and in the case of any arranging debtor who shall reside or have an office or place of business within the district for the time being assigned to such court.

Appointment of officers.

6. The Lord Lieutenant may, subject to the provisions of this Act, and with the consent of the Treasury, from time to time after the passing of this Act, by Order in Council, direct the appointment for the local bankruptcy court of the officers herein-after mentioned, or any of them, and prescribe the tenure of each office, and provide for the payment to each such officer of such salary or remuneration by or out of moneys to be provided by Parliament for the purpose, or by or out of prescribed fees or percentages as may be by such order directed. Such appointments shall be subject to the following provisions :

- (1.) The officers who may be directed to be appointed as aforesaid for the local bankruptcy court shall be an official assignee, a local registrar, a messenger, and such clerk or clerks and such officer or officers as the Lord Chancellor, with the concurrence of the Treasury, shall consider necessary for the proper discharge of the duties of the court, and each officer shall discharge all such and the like duties, and exercise all such and the like powers, and enjoy all such rights and privileges

as might for the time being be discharged, exercised, and enjoyed by the corresponding officer of the Court of Bankruptcy, or as may be prescribed by Order in Council :

(2.) The Lord Chancellor, with the concurrence of the Treasury, may, with the consent of any existing officer of the Court of Bankruptcy, appoint such officer to be an officer of the local bankruptcy court, either without ceasing to be an officer of the Court of Bankruptcy or otherwise, and upon such terms as to existing rights to salary and pension as the Lord Chancellor, with the concurrence of the Treasury, and with the consent of the officer, may by order prescribe :

(3.) Any officer of the recorder's court or of any civil bill court holden within the district assigned to the said local bankruptcy court who was appointed before the passing of the County Officers and Courts (Ireland) Act, 1877, and who was re-appointed an officer of either of said courts since the passing of said last-mentioned Act, but who in consequence of the death or retirement of any judge of either of said courts may have been suspended from his said office, shall, notwithstanding such suspension, be now considered and taken to be an existing officer of such recorder's court or civil bill court as the case may be, and shall with his own consent be appointed by the Lord Chancellor to be an officer of the local bankruptcy court, either without ceasing to hold his existing office or otherwise.

(4.) All junior clerkships in the local bankruptcy courts shall be filled up by open competition, but this provision shall not apply to any person holding any office or clerkship at the time of the passing of this Act, nor to any officer of the recorder's court or any civil bill court, who may be appointed to be an officer of the local bankruptcy court. The Lord Chancellor shall, with the concurrence of the Civil Service Commissioners, make regulations as to the qualification of candidates and the subjects of examination for such competition :

(5.) Every appointment not made as herein-before provided shall be made by the Lord Chancellor, and every person appointed shall possess such qualifications and may be required to pass such examination as may be from time to time prescribed by Order in Council, and every officer of the local bankruptcy court shall be removable by the Lord Chancellor. Every officer of the recorder's court or of any civil bill court who shall be appointed to be an officer of the local bankruptcy court shall continue to hold his office in such recorder's court or civil bill court, notwithstanding that any recorder or

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40 & 41 Vict.
c. 56.

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county court judge who may have appointed him shall have vacated his own office, unless the Lord Chancellor shall otherwise direct.

Duties of
the clerk of
the Crown
and peace.

7. Every clerk of the Crown and peace, and every registrar, and other officer of the recorder's court or of any civil bill court holden within the district assigned to the local bankruptcy court, may, if appointed after the passing of the County Officers and Courts (Ireland) Act, 1877, be by Order in Council empowered and required to act also as an officer of the local bankruptcy court, and to discharge such duties in connexion with the jurisdiction of the local bankruptcy court, being compatible with the due performance of his other duties, as may be prescribed by Order in Council.

Power to
make rules
and orders.

8. Subject to the provisions of this Act, the times and places for, and the manner of exercising the jurisdiction conferred by or under this Act, and the practice and mode of procedure and the forms to be used, and the fees, costs, and charges to be payable to counsel and solicitors in the local bankruptcy court, and the powers, authorities, control, and duties of the several officers of the said court, and all other matters and things, whether similar or not to those herein-before mentioned, in respect of which it may be expedient to make further or additional provisions for carrying the purposes of this Act into execution, shall from time to time be regulated, prescribed, defined, and directed by Orders in Council; and provisions may be made by such orders for the discharge by the local registrar during the absence or in case of the incapacity or of a vacancy in the office of the judge of the local bankruptcy court, and otherwise, of such of the jurisdiction, powers, and authorities of the judge of the local bankruptcy court in bankruptcy, as it may be deemed expedient to permit the local registrar to exercise. The orders regulating the local bankruptcy court shall, so far as may be deemed expedient, be assimilated to the rules and orders for the time being in force in the Court of Bankruptcy, and the rules, orders, and practice of the Court of Bankruptcy for the time being shall, so far as the same shall not be inconsistent with this Act, or with any order under this Act, be in force in the local bankruptcy court. Provision shall be made by such Orders in Council for the due notification to, and registration in the Court of Bankruptcy, and by the officers thereof, of all adjudications and proceedings in the local bankruptcy court, which, for the protection of purchasers, creditors, or other persons, or for the simplification of searches or otherwise, it shall

be deemed necessary or expedient to register or record in the A.D. 1880.
Court of Bankruptcy.

9. The Lord Lieutenant may, with the concurrence of the Fees.
Treasury, by Order in Council, from time to time fix the fees
5 and per-centages to be taken in the local bankruptcy court in
respect of any business under this Act: Provided always, that
in fixing such fees and per-centages regard shall be had where
practicable to the ad valorem principle.

The Public Offices Fees Act, 1879, shall apply to fees taken
10 under this Act.

10. The Lord Lieutenant, with the concurrence of the Treasury, Salaries
and compensa-
tion.
shall award to the several officers of the local bankruptcy court
appointed under this Act, such salaries or annual or other sums as
shall be reasonable, having regard in each case to the amount
15 of duty to be performed, and to any fees or per-centages which
may be received under this Act: *such salaries and sums shall be
paid out of moneys which shall be provided by Parliament for the
purpose. The Treasury shall, out of moneys to be provided by
Parliament for the purpose, pay to any existing official assignee of*
20 *the Court of Bankruptcy, whose emoluments shall be reduced by
the operation of this Act, such annual or other sum or sums by
way of compensation for such loss of emoluments as, having regard
to the tenure of his office, the length of his service, his remaining
emoluments, and the other circumstances of the case, shall to the*
25 *Treasury appear just and reasonable.* If any such official assignee
shall refuse to accept or hold any office in the local bankruptcy court
which may be offered to him without requiring him to cease to be
an officer of the Court of Bankruptcy, the Treasury shall take such
refusal into account in reduction of any claim to compensation
30 under this section.

11. An appeal shall, subject to any Order in Council, lie from Appeals.
every order or decision of a local bankruptcy court in the same
cases, to the same tribunal, in the same manner, and subject to the
same rules as if such order or decision were made by the Court
35 of Bankruptcy or by a judge thereof.

12. Where any proceedings are pending in the local bankruptcy Transfer of
proceedings
court, any of the parties to such proceedings may apply to the
Court of Bankruptcy or a judge thereof to order that such pro-
ceedings may be transferred to and thenceforward carried on in the
40 Court of Bankruptcy; and in every such case such court or judge
may, upon such application, or without such application if it shall

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appear expedient, on being satisfied that such proceedings can be more efficiently or conveniently carried on in the Court of Bankruptcy, make an order for the transfer of such proceedings, and directing same to be thenceforward carried on in the Court of Bankruptcy, and may make such order as to the costs, if any, incurred before such transfer, and may make such other provision for staying further proceedings in the local bankruptcy court, or for the further prosecution of said proceedings, as may appear expedient; and where any proceedings are pending in the Court of Bankruptcy which might lawfully have been instituted and carried on in the local bankruptcy court, any of the parties to such proceedings may apply to the Court of Bankruptcy or a judge thereof to order that such proceedings may be transferred to and thenceforward carried on in the local bankruptcy court, and in every such case such court or judge may, upon such application or without such application if it shall appear expedient, on being satisfied that such proceedings can be more efficiently or conveniently carried on in the local bankruptcy court, make an order for the transfer of such proceedings and directing such proceedings to be thenceforward carried on in the said local bankruptcy court, and may make such order as to the costs, if any, incurred before such transfer, and may make such other provision for staying further proceedings in the Court of Bankruptcy, or for the further prosecution of said proceedings, as may appear expedient; and the said court or judge on the hearing of any application for the transfer of proceedings from the Court of Bankruptcy to the local bankruptcy court, or from the local bankruptcy court to the Court of Bankruptcy, shall have due regard to the wishes of the creditors, or the majority of them in number or value, and the grounds for making such order shall be recited therein; and provision may be made by Order in Council for prescribing the mode in which such transfer shall be made, and generally for regulating the same so as to provide for the discharge of bankruptcy business in each of the said courts as may most conveniently and efficiently discharge the same. The provisions of this section shall apply to proceedings subsequent as well as prior to an adjudication by the Court of Bankruptcy or the local bankruptcy court. All such estate and effects as would vest in the official assignees of the Court of Bankruptcy if the proceedings had been instituted in that court shall vest in the official assignee of the local bankruptcy court where the proceedings are instituted in the local court; and where proceedings instituted or pending in either the Court of Bankruptcy, or the local bankruptcy court, are transferred therefrom to the other of the said courts, then the

estate or effects which prior to such transfer were vested in consequence of such proceedings in the official assignee or assignee of the court in which the proceedings were instituted or pending shall by virtue of such transfer become vested in the assignee or assignee of the court to which the proceedings are transferred. Any order by the Court of Bankruptcy or a judge thereof under the provisions herein contained may be appealed against in the same manner as any other order of such court or judge.

A.D. 1880.

13. The Lord Lieutenant may, by Order in Council, from time to time after the passing of this Act, direct that provision shall be made by the grand jury of the county of Antrim, or by the town council of the borough of Belfast, established under this Act, or by some one of them, for the erection of a suitable and convenient court-house and offices, or for the alteration, so as to make the same suitable and convenient, of any existing court-house and offices for the transaction of the business of the local bankruptcy court, and may estimate the sum of money requisite for that purpose, and what proportion of such sum is to be contributed by each such body, and upon such order, and as shall be directed thereby, such grand jury or town council, as the case may be, shall by presentment without application to presentment sessions, out of the county cess or borough fund or borough rate, or such other fund or rate as shall be by such order directed, or by the application to such purposes of any lands or buildings under their control, or by any or all of the ways and means aforesaid, provide and shall thenceforth maintain such court-houses and offices as may be required for the purposes of this Act: Provided that any court-houses and offices for the time being existing in such place and under the control of such grand jury or town council, or used for any public purpose, may be made available for the purposes of the local bankruptcy court and of this Act in such manner and upon such conditions as may be directed by Order in Council.

Court-houses and offices.

14. All the provisions of the Debtors (Ireland) Act, 1872, relative to the punishment of fraudulent debtors, and relative to offences in relation to bankruptcy or arrangement matters, shall be applied with reference to this Act as if the local bankruptcy courts and the proceedings therein were specified in the said Debtors (Ireland) Act, 1872, in addition to the Bankruptcy Court and the proceedings therein.

Construction of 35 & 36 Vict. c. 57. with reference to this Act.

15. Any Orders in Council made in pursuance of any of the provisions of this Act shall, from and after their publication in the

Orders to be submitted to Parliament.

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- A.D. 1888. *Dublin Gazette*, be deemed to be within the powers conferred by this Act, and be of the same force as if enacted in this Act, and be judicially noticed, and the same shall be laid before Parliament within three weeks after they are made if Parliament be then sitting, and if Parliament be not then sitting, within three weeks 5 after the beginning of the then next session of Parliament: Provided always, that if either of the Houses of Parliament shall, within the next subsequent one hundred days on which either of the said Houses shall have sat, resolve that the whole or any part of any such Order in Council ought not to continue in force, in 10 such case the whole or such part thereof as shall be so included in such resolution shall thereupon become void and of no effect, but without prejudice to the validity of any proceedings which may in the meantime have been taken under the same.

Bankruptcy Court
(Belfast).

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To establish a local Court of Bankruptcy
in Belfast.

(*Prepared and brought in by*
Mr. Searles, Mr. McCauley, Mr. Rogers,
Mr. Thomas Edwards, Mr. Arthur O'Connor, and
Mr. Cairns.)

Ordered, by The House of Commons, to be Printed,
20 August 1865.

LONDON

PRINTED BY EILE AND SPOTTISWOODE,

To be purchased, either wholesale or through any Bookseller, from
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[Order 2 on. Price 14s.]

[Bill 9.] Sess. 2.